

**PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING / GENERAL MEETING
JULY 26, 2016**

Place: Room 206

TIME: 8:00 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:
Cameron, Cunningham, DiDonna, Sini, Jr., Voigt and at 8:30, Olvany

STAFF ATTENDING: Ginsberg, Keating

RECORDER: Syat

Channel 79

Chairman Cameron opened the meeting at 8 P.M. and read the first agenda item.

PUBLIC HEARING

Special Permit Application #42-I/Site Plan, Land Filling & Regrading Application #391, Parklands Office Park, LLC, 1 Parklands Drive. Request to raze the existing 1 Parklands Drive office building and construct a new Assisted Living Facility/Memory Care Facility, and to perform related site development activities. The subject property is located on the south side of Parklands Drive, approximately 500 feet south of its intersection with Old King's Highway North, and is shown on Assessor's Map #35 as Lot #34, in the DOR-1 Zone.

Craig Flaherty, Professional Engineer of Redniss & Mead Associates, explained that this is a 7.9 acre site that currently contains two office buildings and large parking areas to accommodate the office uses. The site is adjacent to Selleck's Woods and the Interstate 95 service area. To the east of the property are single family residences. The plan is to leave the rear office building as it is. The front office building known as Building #1 will be renovated and expanded to become an assisted living facility containing a total of 105 units. Seventy-eight units will be assisted living facility for elderly and 27 units will be for memory care patients. There will be a total of 234 on-site parking spaces; 108 of those spaces will be for exclusive use of the office building to the rear. Eighty (80) parking spaces will be exclusively used by the assisted living facility employees and visitors. Forty-six parking spaces will be shared parking spaces that can be used by visitors to the assisted living facility or business patrons going to the office building. Mr. Flaherty said that the peak parking demand time for the office building was generally between 9am -5pm, Monday through Friday. The peak parking demand for the assisted living facility is generally at the shift change times at 7am and 3pm, and for visitors, during the evenings and weekends. Mr. Flaherty explained that they appeared before the Environmental Protection Commission (EPC) to discuss the establishment of a new 40,000 square foot conservation easement and in making landscaping and other minor improvements within the existing conservation easements on the property. He said that they have met with the Architectural Review Board (ARB) which liked the colors and the basic design concepts. The ARB has asked for some minor modifications and clarifications. Those will be presented at the ARB meeting in September.

Mark Lancor of Dymar explained that both of the existing buildings are served by sewer and public water. They will need to relocate part of the existing infrastructure to make way for the proposed expansion of the front building. He said that they have confirmed with the Department of Public

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Works that there is more than adequate sanitary sewer capacity for the proposed assisted living facility. Mr. Lancor said that they acknowledge that some of the neighbors on Fairmead Road pump sewage up into this system on the site. Those facilities will need to be relocated and revised per the Department of Public Works requirements.

Mr. Lancor said that the storm drainage system on the site dates back to the mid- 1980's. It discharges water into a lake that is located behind the I-95 northbound service area (Dunlap Lake). They will be replacing that old system and will install a drainage system that will have pretreatment facilities to improve water quality. The new system will reduce the outflow of stormwater in 2 year through 50 year design storms. There will actually be a reduction in the total volume of outflow to the lake. This is in accordance with Section 880 of the Zoning Regulations.

Mr. Lancor said they reviewed the plans with the Fire Marshal and with the engineering firm of Tighe & Bond, which has been hired by the Town to review the project. He said some portions of the driveway to the rear office building are now 20-22 feet wide. There will be some widening of the driveway so that it is at least 24 feet wide adjacent to places where parking spaces back-out into the common driveway. He said that they will install cross walks and pedestrian cross ways to make it more clear where pedestrians can safely walk.

Mr. Flaherty explained that much of the proposed building expansion is over the existing parking lot. Because of that, the total developed site area will be 43.5% of the land. 50% is the maximum allowed by the Regulations.

Mr. DiDonna said it appears that some people could be trapped within a courtyard during an emergency. Mr. Lancor said that he discussed that matter with the Fire Marshal. That courtyard is specifically designed for people with memory problems and they do not want the people to walk out of that courtyard. Mr. Flaherty said that the building is fully sprinkled and the stair towers are fire rated so that if there is an emergency, there is not likely to be a fire that spreads and people will be able to take refuge within stair towers. He also noted that they are adding two more fire hydrants. This will bring result in a total to four hydrants that are accessible for the building.

Mr. Olvany arrived at 8:30 P.M.

Traffic Engineer Kermit Hua, P.E., explained that he has 19 years of experience dealing with this type of traffic issue. He said that the International Traffic Engineers estimate is that at least 0.41 parking spaces need to be created for each unit, thus a recommendation of 75 parking spaces. They have provided 80 parking spaces exclusively for use by the assisted living facility and providing 46 other parking spaces that are shared with the office building. This means that 126 parking spaces are available for use by the residents, employees and visitors to the assisted living facility. This works out to be 1.2 parking spaces per unit. He said this should be more than enough parking spaces for the assisted living facility and leaves more than enough parking spaces for the office use. Mr. Hua said that they have had only one accident in the last three years in the immediate vicinity and this does not create a pattern of traffic concern. He said the sight line from Parkland Drive looking west on Old King's Highway North is approximately 410 feet. Looking in an easterly direction, the sight line is approximately 700 feet. Both of these sight lines are more than adequate for safety concerns. Drivers exiting Parklands Drive will need to wait until there is a clear gap for

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them to safely proceed. He said at most, they will need to wait for 20-30 second and this will cause a maximum queue of 3 to 4 vehicles.

Mr. Flaherty said that they met with the ARB on July 19, 2016. The ARB reviewed the style and color and materials that are proposed. He said that there is some concern by the ARB about the metal roof on the porte-cochère and about the monument sign and directional sign. The applicant will provide revised façade details to address the ARB concerns. He said the roof is slightly pitched with a parapet wall around it to screen the view of mechanical equipment on the flat roof. He said that the current height of the building is slightly less than 30 feet. The proposed flat roof will have most of the roof at elevation 38 and a small portion of the peak at elevation 41. Mr. Flaherty said that the original front office building contained 22,649 square feet. The proposed assisted living building will contain approximately 100,000 square feet.

William Kenney, Landscape Architect, said that there are several types of plantings around the site. They include the streetscape on the western side of the building, and the screening of the residential properties on the eastern side of the site. That screening will be supplemented by the planting of spruce and rhododendron. The third type of landscaping is to plant additional trees within the conservation easement. These additional plantings will provide more buffer between the assisted living facility and the single family residential neighbors as well as providing wildlife habitat. Another type of planting will be in the courtyards. He said the memory care courtyard will have a special mixture of color and texture. Other dining courtyards will be more open with planters. Mr. Kenney said that large shade trees will be planted in the parking lot area. At the Commission's request, he will provide a more detailed plan enumerating the trees to be removed and the new trees to be added.

Mr. Flaherty said that the trash area enclosure will be on the west side of the building. He said that the lights in the parking lot and on the building will have cutoff or shade type fixtures so that they can prevent light spillage that might otherwise be directed at the neighbors. There will be staff and residents on the site 24 hours a day, 7 days a week.

In response to questions, Mr. Flaherty said that some of the crosswalk and walkway improvements are being made to accommodate the reality that some workers from the I-95 service area do already walk through the Parklands site to get to Old King's Highway North and/or the bus stop on Route 1. They are making the pedestrian improvements to provide a safer area for those people that already walk through the area. They are not making the improvements to encourage anyone to walk through the area. In response to a question, he said that the taxable value of the site will increase by approximately \$25-30 million.

Joseph Canas, Professional Engineer of Tighe & Bond Engineering, said that he has reviewed the plans and there have been numerous correspondence back and forth. There are five items to be resolved but they are all minor. He said that the plans do conform with the Town Regulations for proper management of stormwater.

Dave Sullivan of Milone & MacBroom said that he was hired to review the parking and traffic analysis. He provided approximately a dozen comments and there have been two sets of responses to his comments. He is satisfied with those responses. He said that the parking proposal meets the Regulations and the industry data and the observable needs for the type of uses involved.

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Gaillette Jones asked if there is public access still provided to the Selleck's Woods area. Ms. Cameron said that she has reviewed the plan and found that there is still a public access through Parklands Drive to Selleck's Woods. Ms. Jones asked if there was a designated smoking area and if perimeter fencing would be provided around the complex. Mr. Flaherty said that if smoking is allowed on the site at all, it would be outside of the building and no specific smoking area has been designated at this point. He also said that there is no perimeter fencing provided or designed but the building access will be totally controlled.

In response to questions, Mr. Flaherty said that he believes that approximately 50 trees, each approximately 20-30 years old, will be removed and that approximately 100 new trees will be planted. In response to other questions, he said that he felt they would encounter rock ledge to the west side of the access driveway. He did note that 12 parking spaces along the access driveway are shown on the plans and they request that the installation of those parking spaces be delayed or deferred until such time as the building is operational. If those 12 spaces are necessary, then they would construct the parking spaces. If they are not necessary it would not be appropriate to cause that disturbance. He said that the walkways are primarily for employee safety and the safety of those people that already walk through the area. He also noted that they would build the entire structure and open it all at once rather than try to do it in phases.

Italo Vicco, Director of Development for LCB Senior Living, explained that the memory care portion of the building will have electronically locked doors. If there is a fire alarm that is activated, then the doors become unlocked so that people can get out of any danger. In response to questions, he said that the facility will not have a fence around the perimeter and he noted that residents that were physically and mentally capable of doing so will be able to walk on the outside pathways on the site. He said that one of goals of the operators is to encourage visitors and lecturers and art shows so that the facility will become part of the community and there will be activities for the residents. Mr. Vicco said that more parking per patient is proposed at the Darien facility than at other facilities that they have built. He said they will provide a small bus to take residents to appointments or shopping or for other errands. In response to questions, he said that he expects the construction time will take 16-18 months.

The Commission noted that the ARB had not yet issued a final report and they asked about keeping the public hearing open and continuing the hearing on September 13, 2016. Mr. Flaherty agreed to an extension of the time periods to allow the public hearing to be continued on September 13. Mr. Ginsberg said that the hearing will be continued on September 13 in a room to be determined in the Town Hall.

Chairman Cameron then read the following agenda item:

Business Site Plan #110-G/Special Permit, H&L Chevrolet, 1416 Boston Post Road. Proposal to construct a one-story addition to the existing building to enlarge the interior repair shop and to update certain site features; and to perform related site development activities. The subject property is located on the east side of Boston Post Road, approximately 300 feet north of its intersection with Hecker Avenue, and is shown on Assessor's Map #63 as Lot #15, #16, and #17 in the Service Business (SB) Zone.

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Ms. Cameron announced that this public hearing item was continued to September 13, 2016 at the applicants request.

Chairman Cameron then read the following agenda item:

Coastal Site Plan Review #314, Land Filling & Regrading Application #392, Clover Properties, LLC, 67 Salem Straits. Proposal to construct a replacement single-family residence with in-ground pool; regrade for a new retaining wall and garage backout area; and to perform related site development activities within a regulated area. The subject property is located on the north side of Salem Straits approximately 200 feet northeast of its intersection with Candlewood Lane, and is shown on Assessor's Map #62 as Lot #65 in the R-1 (Residential) Zone.

The public hearing on this matter will be continued on September 13, 2016.

Chairman Cameron then read the following agenda item:

Business Site Plan #237-A/Special Permit, Dolman Properties, LLP, 22 Grove Street. Request to expand existing driveway to accommodate additional on-site parking, and to establish a real estate office on the first floor of the existing building. The subject property is located on the north side of Grove Street, approximately 130 feet west of its intersection with Brook Street, and is shown on Assessor's Map #73 as Lot #20, in the CBD Zone.

The existing property has been used as a real estate back office for the nearby William Pitt real estate office that fronts on the Boston Post Road. The applicant's propose that the use be converted to an office. Attorney Carolyn Cavolo said that when it was the back office for William Pitt Realty, it had one full time employee. They have obtained a variance from the Zoning Board of Appeals (ZBA), Calendar No. 23-2016, to have fewer than the required seven on-site parking spaces. The ZBA stipulated that the garage must be usable and accessible and unobstructed so that it can be used as active parking spaces by the workers on the site.

In response to questions from Mr. DiDonna, Ms. Cavolo said that the signage for the office will be similar to what is there. Approval from the Architectural Review Board will be necessary prior to the installation of any new signage. No variances for signage were granted by the ZBA.

There were no comments from the public regarding the application. The following motion was made: That the Planning & Zoning Commission close the public hearing regarding this matter and will render a decision at a future meeting. The motion was made by Mr. Olvany, seconded by Mr. DiDonna and unanimously approved.

After a 5 minute recess, the General Meeting convened at 9:30 P.M. Chairman Cameron then read the following agenda item:

GENERAL MEETING

Discussion and deliberations and possible decisions regarding the following:

Amendments to the Darien Zoning Regulations put forth by Noroton Heights Shopping Center, Inc., and FR Darien, LLC (COZR #6-2016). Proposal to amend Section 680 *et. seq.* and the

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inclusion of a new subsection 687 (Public Plazas). These proposed amendments address redevelopment in the Noroton Heights Redevelopment (NHR) Zone, and would allow for an increase in: number of stories of building height; building height in feet; Developed Site Area; and allow for larger dwelling units. Amendments are also proposed to Sections 905 (Joint Parking), by adding a new subsection 905.2 (Joint Parking in Mixed Use Developments). This will allow residential parking to be separated from non-residential parking. Amendments to subsection 907 (Parking Structures), would allow for subsurface parking without such being counted as stories, and will allow such subsurface parking structures to be located within minimum yard areas. The amendments to Sections 905 and 907 would apply to all zoning districts in Darien. *PUBLIC HEARING CLOSED: 5/24/2016. DECISION DEADLINE: 7/28/2016.*

The following motion was made: That the Planning & Zoning Commission waive the process of reading all the draft resolutions aloud because each member has had an opportunity to review the drafts prior to the meeting. The motion was made by Mr. Sini, seconded by Mr. Olvany and unanimously approved.

Commission members reviewed the draft section by section. They agreed to changes to the Background and Purposes. With respect to outside sales, they also wanted to be able to regulate the times that outside sales could take place. Several points were made including: dwelling units would be allowed only on the upper floors except along West Avenue; the number of stories allowed in the zone would not change; the maximum height in feet would not change; the size of the dwelling units would remain at 1,500 square feet rather than being revised to 1,800 square feet; and the amount of developed area on the site would remain at 80% instead of being changed to 90% of the lot area. Commission members noted that green space located at ground level (even if it is above an underground parking area) would not count as developed area. They agreed that the density should remain at no more than 12 units per acre.

With respect to the public plaza, they felt that water features could be allowed but should not be required. They also wanted to make sure that the public plazas would be accessible to the public but would be privately owned and maintained. Section 656e of the Zoning Regulations currently allows 2.5 square feet of third floor bonus area for each 1 square foot of public plaza that is created within the Central Business District. In the Design Commercial Zone, there is no such formula yet. Commission members felt that the proposal of only requiring a minimum of 5% of the site to be open space was too small. They suggested they would be more comfortable with the minimum of 10% open space in order to get bonus third floor space. There was some concern expressed regarding the joint use of parking spaces and if there would be enough parking spaces for visitors to the residential units. Section 907 of the Regulations regarding underground parking has already been adopted because it was submitted as part of a separate application regarding a different property.

Commission members asked staff to revise the draft resolution so that it can be discussed and reconsidered at the August 2, 2016 meeting. Attorney Bruce Hill represented that his client would consent to the extension of time to act upon the application.

Chairman Cameron then read the following agenda item:

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Flood Damage Prevention Application #352, Land Filling & Regrading Application #377, Everett Schenk, 19 Salisbury Road. Proposal to fill and regrade in conjunction with the construction of a replacement residence, with associated stormwater management and septic system, and to perform related site development activities within a regulated area. *PUBLIC HEARING CLOSED: 6/7/2016. DECISION DEADLINE: 8/11/2016.*

Mr. Cunningham said he would not be voting on this matter. Mr. DiDonna said that he did watch the recording of the public hearing and would vote on the application.

The draft resolution was discussed. Minor changes and clarifications were agreed upon. The following motion was made: That the Planning & Zoning Commission adopt the following resolution to approve the project subject to the conditions and stipulations as noted. The motion was made by Mr. Voigt and seconded by Mr. DiDonna. All voted in favor except Mr. Cunningham, who abstained. The motion passed by a vote of 5-0-1. The adopted resolution reads as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
July 26, 2016**

Application Number: Flood Damage Prevention Application #352
Land Filling & Regrading Application #377

Street Address: 19 Salisbury Road
Assessor's Map #1 Lot #101

Name and Address of Applicant &: Everett Schenk
Property Owner: 15 West Lane
Stamford, CT 06905

Name and Address of Applicant's Representative: Douglas DiVesta, PE
As noted on Application: DiVesta Civil Engineering Associates, Inc.
51 Painter Ridge Road
Roxbury, CT 06873

Activity Being Applied For: Proposal to fill and regrade in conjunction with the construction of a replacement residence, with associated stormwater management and septic system, and to perform related site development activities within a regulated area.

Property Location: The subject property is located on the east side of Salisbury Road, approximately 700 feet south of its intersection with Pembroke Road.

Zone: R-2

Date of Public Hearing: March 29, 2016 immediately continued to April 26, 2016 and
Immediately continued to May 24, 2016 and also continued to June 7, 2016
Deliberations Held: June 28, 2016

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Time and Place: 8:00 P.M. Room 206 (4/26, 6/7) and Auditorium (3/29, 5/24) Town Hall

Publication of Hearing Notices

Dates: March 18 & 25, 2016

Newspaper: Darien News

Date of Action: July 26, 2016

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
August 5, 2016

Newspaper: Darien News

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 406, 820, 850, and 1000 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted plans, and the statements of the applicant's representative and other experts, whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The proposal is to fill and regrade in conjunction with the construction of a replacement single-family residence with four bedrooms, with associated stormwater management and septic system, and to perform related site development activities within a regulated area. The subject property is now served by a well and an on-site septic system. The existing well and septic system will be abandoned, and a new well and septic system are proposed to be installed. A portion of the subject property is within the Flood Hazard area.
2. The applicant has obtained a variance from the Zoning Board of Appeals (ZBA) as part of ZBA Calendar #7-2016 on January 27, 2016. Approval was also obtained from the Environmental Protection Commission (EPC) as part of EPC #2-2016 on May 4, 2016. Those approvals are hereby incorporated by reference.
3. The Planning & Zoning Commission hired professional engineer Joe Canas of Tighe and Bond to peer review the application relative to floodplain management and stormwater management issues. Mr. Canas submitted three review letters for the record--dated March 17, 2016 (four pages); April 4, 2016 (four pages), and June 2, 2016 (four pages). During the public hearing process, numerous revisions were made to the plans to address comments from the peer review engineer, as well as neighbor and Commission concerns.

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STORMWATER MANAGEMENT AND DRAINAGE SWALE

4. Doug DiVesta, the applicant's Professional Engineer, explained that 91 cubic feet of fill will be necessary to implement the proposed work. There will be approximately 18 cubic feet of cut into the existing soil. The proposed plan will add a detailed drainage system, which should create an improvement over the existing conditions. This will reduce the amount of stormwater outflow from the site. With respect to stormwater drainage, Mr. DiVesta said that a culvert had been getting clogged near #54 Pembroke Road and this has caused an overflow of water onto the road and other properties, including 19 Salisbury Road. At the second hearing, Mr. DiVesta indicated that the culvert's flow was improved by the removal of a gate creating a blockage at the culvert.
5. Mr. DiVesta said that along the easterly and northerly property lines, they are proposing to start a swale to get water to move around the proposed septic system instead of straight through the site. A drainage swale is proposed to be created to channel that excess flood water around the new house and septic system and to create an area where the water can flow through the site. He said the removal of the trash rack in the drainage system at 54 Pembroke Road has helped to minimize the back up of water.

SEPTIC SYSTEM

6. The proposed new septic system has been reviewed and approved by the Health Department. Mr. DiVesta said that the specially designed septic system uses alternating layers of sand and stone and takes up a minimal amount of space. In response to concerns of the neighbor's engineer, Mr. DiVesta said that they have already shortened the septic system once and that rotating it to the south would be relocating it out of the best soil. A letter of June 2, 2016 was received from Joseph Canas, P.E.
7. It was noted that David Knauf of the Darien Health Department has reaffirmed the subject system design as it has been slightly revised. That Darien Health Department approval was on June 3, 2016 and is for a four bedroom residence. A copy of that approval was submitted for the record in this matter.

NEIGHBOR CONCERNS

8. The neighbors voiced their concerns regarding numerous aspects of the application. These include: stormwater management, the proposed septic system, tree protection, flooding and parking of construction vehicles. The neighbors presented testimony via their attorney, professional engineer, and arborist. The neighbors are concerned about the proposed activity, filling and regrading that will take place at #19 Salisbury Road.
9. Attorney Gleason, who represented Ms. Viesto of 9 Salisbury Road, said that the filling and regrading for the driveway is very close to the 30-33 inch diameter maple tree, which is located on or near the property boundary line. This maple tree will need a protection zone larger than what is currently shown on the applicant's plans. He said that the trench proposed in the plans will also be within the tree root protection zone and thus should not be allowed. He said that continuing eastward on the site plan, the Commission should make sure that there is no regrading within the entire tree root protection area. In one case, the tree on the map is marked as a 12 inch diameter tree when in fact it is really a 16 inch diameter tree. As a result, the critical root protection area must be enlarged because otherwise the applicant would be proposing a cut of 6 to 9 inches into the grade in the critical root zone area.

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10. Craig Flaherty, Professional Engineer from Redniss & Mead, said that in his opinion, the basic problem is that the septic system as designed would obstruct the free flow of water from the north to the south through the center portion of the site. Currently, that flow of surface water moves unimpeded from the Viesto property to and through the Schenk property. By raising the grade for the house and the septic system, the applicant will then try to divert the water to the east via a swale. Unfortunately, sometimes a swale includes excavating into the root zones of the trees. In other cases, they will be filling the ground level by 3 ½ inches on top of the already sensitive roots in the area. In some cases they will be filling about 3 ½ inches of depth along the property line. This will back up the natural flow of surface water from the Viesto property to the Schenk property. He said that the west end of the septic system should remain in the location as designed but the east end of the septic system should be swung about 6 feet farther to the south (away from the Viesto property). This would eliminate the need to fill near the property line and would eliminate the need to cut into the root systems of the trees in the vicinity. Mr. Flaherty said that the proposed garage would be approximately 3 feet higher than the existing grade. This results in the grading of the driveway and back-up area about 16 inches above the existing natural grade approximately 6 feet from the property line. This filling and regrading will obstruct the flow of water at or near the property line. He said that if the garage is lowered, then there would be no need to regrade near the property boundary and there would be no change in the flow of water.
11. Mr. Flaherty said that grading on the east end of the Schenk proposed development is critical to make sure that water flows through the swale and goes through the site in a manner similar as it does today. He said that the swale in the south portion of the property should be moved 4 to 5 feet farther from the property boundary line to protect the trees that are on the neighbor's property.
12. At the public hearing, John Moran, the neighbor's Arborist, referred to his report dated May 31, 2016. He said there is a critical need to protect the tree root systems from any disturbance. He said many of the trees in the area are healthy and contribute to the natural wooded condition. He said this is not a manicured area and that the trees are not dying. He referred to his report and noted there are 3 trees of critical concern. If a backhoe goes in and excavates in a typical manner, it will seriously damage the roots and therefore impact the health of the trees. The proper way would be to air spade to remove the soil from the roots and then properly cut the roots, rather than use a backhoe to rip the roots. He said that trees #9, #11 and #13 noted in his report need special protection and care.
13. Joe Canas, Professional Engineer from Tighe & Bond, reviewed his letter of June 2, 2016 in which he noted that the applicant has provided the calculations of the swale flow. Mr. Canas did question the use of a 6 inch curb along the edge of a back-up area and wondered whether it would be bulky enough. He said that the 3 inch rise in the grade along the property line that was referred to by Mr. Flaherty was beyond the detail that (Mr. Canas) has found, but if there is regrading at the property line it could impact the neighbor. He said that the drainage system proposed on the site would result in a no additional stormwater runoff being created by the applicant and in general, they are not changing the flood areas or elevation of flood waters by moving the water around the proposed septic system. Mr. Canas said that the finished ground elevations will be extremely important and should be checked throughout the construction

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process and at the conclusion of the construction to make sure that all the work is done in accordance with whatever plans are approved.

TREE PROTECTION

14. Architect Louis Fusco said that they will take actions to save the trees near the driveway. He said that the swale is designed to let water flow more efficiently around the septic system and house and that they will use an air spade system and proper cutting of the roots rather than ripping them with a backhoe.
15. Attorney Gleason said that if the Commission is inclined to approve the project, then the air spade and proper cutting of the root system should be stipulated.
16. A letter from Attorney Wilder Gleason representing neighboring property owners had been received regarding the potential impact on the trees located on a neighbor's property due to this site development activities proposed at 19 Salisbury Road. Mr. DiVesta said the plans have been revised to show tree protection around the critical root zone areas in accordance with the 2002 Sediment & Erosion Control Manual produced by the Connecticut Department of Environmental Protection. He said the tree protection will include the installation of temporary orange construction barrier fencing so that the critical root systems are not disturbed. Mr. DiVesta said that he is aware that there are tulip trees at the south end of the site and they are deliberately keeping all work outside of the critical root zone in that vicinity. A tree protection zone is now to be incorporated to protect the critical root zone for the trees in the areas adjacent to the property lines. This tree protection is shown on both the Planting Plan and the Proposed Subsurface Sewage Disposal System Plan.

AREA NEAR DRIVEWAY

17. Mr. DiVesta said that in the vicinity of the proposed driveway location near the property line, they have proposed to regrade and fill the area. They will install a French drain to allow water to flow parallel to the fill and will pitch the driveway into the subject property rather than toward the neighboring property. They have also revised the proposed swale near the southeast boundary line in accordance with comments from Joe Canas.

PROPOSED WORK WITHIN THE FLOOD ZONE

18. The subject property is partially within the flood zone. The new residence is proposed to have a first floor elevation of 187.5, and will meet the FEMA regulations. While the Commission acknowledges that construction of any new residence in a flood zone is not ideal, in this case, the proposed house is replacing an existing residence on a building lot, and the new residence and any associated HVAC units, mechanical equipment and generator(s), will comply with the flood regulations, which is an improvement over the existing situation.
19. The Commission notes that areas within the vicinity of this property are in the flood zone. While the applicant is proposing a number of improvements to minimize flooding in the neighborhood, and to address stormwater management, these improvements will not eliminate the flooding that might now occur on other properties.
20. The proposed activities, to be implemented with the conditions listed below, will have no adverse impact on flooding, and therefore, this proposal is consistent with the need to minimize

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flood damage. In accordance with the applicant's submitted engineering information, which was peer reviewed by a professional engineer, the proposed activity will have no adverse impacts on flooding on adjacent properties.

PROPOSED FILLING AND REGRADING

21. Part of this proposal includes the request to fill and regrade. Plans were revised numerous times throughout the public hearing process to address issues presented by Department staff, neighbors, and the Planning and Zoning Commission.
22. While the Commission generally discourages fill in a flood zone, in this specific case, the numerous modifications of the plans, combined with the thorough peer review Joe Canas provides the Commission with a comfort level that the engineering has been properly done, and that if properly implemented, the development will not impact adjacent properties.

TRAFFIC SAFETY/PARKING

23. A five-page letter dated June 2, 2016 had been received from Cheryl Viesto of 9 Salisbury Road, with the subject "Proposed Redevelopment at 19 Salisbury Road: Update to letter on trees; Parking and Traffic Management Concerns". As part of the record in this matter, a June 7, 2016 memo was received from Captain Anderson of the Darien Police Department regarding traffic safety issues. Captain Anderson's memo makes a number of recommendations regarding construction vehicle parking.
24. At the public hearing, neighbors mentioned concerns with proposed parking by construction workers during the construction process. It was noted that there is a sight line issue that could affect traffic using Salisbury Road.
25. The Planning and Zoning Commission has reviewed the traffic memorandum from Captain Don Anderson of the Darien Police Department. At the public hearing, Attorney Maslan said that the applicant will try to comply with all of the safety concerns and issues raised by Captain Anderson.

FINDINGS

26. The Commission has considered all evidence offered at the Public Hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the activities on the subject property and on the surrounding areas, and the suitability of such actions to the area for which it is proposed.
27. The nature of the proposed use is such that the project will not hinder or discourage the appropriate development and use of adjacent land and buildings, or impair the value thereof.
28. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.
29. The location and size of the use conforms to the requirements of Section 1005 (a-g) and will not adversely affect public health, safety and welfare.

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30. The Commission finds that the proposed filling and regrading, as designed by the applicant and approved by the Commission herein with specific tree protection, has no negative impact on the adjacent properties, and is hereby specifically authorized.
31. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Sections 850 and 1000, including but not limited to, all of the provisions of Section 854 of the Regulations.

NOW THEREFORE BE IT RESOLVED that Flood Damage Prevention Application #352 and Land Filling & Regrading Application #377 are hereby granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Work shall be in accordance with the plans submitted to and reviewed by the Commission entitled:
- Zoning Location & Topographic Survey 9 Salisbury Road prepared for Everett Schenk Sally Schenk, by William W. Seymour & Associates, last revised December 22, 2105.
 - Proposed Subsurface Sewage Disposal System, Schenk Residence by DiVesta Civil Engineering Associates, Inc., dated 12/23/15 and last revised 5/27/16, Sheet 1 of 3.
 - Details, Schenk Residence by DiVesta Civil Engineering Associates, Inc., dated 12/23/15 and last revised 3/31/16, Sheet 2 of 3.
 - Details, Schenk Residence by DiVesta Civil Engineering Associates, Inc., dated 2/29/16 and last revised 5/11/16, Sheet 3 of 3.
 - Schenk Residence, Wetland Mitigation Plan Planting Plan, by Louis C. Fusco, scale 1"=20', last revised 06-07-16.
 - Asphalt Drive, Curb and drainage – Section E – Blow Up, scale 1/2"=1'0", submitted 6-7-2016.

The Proposed Subsurface Sewage Disposal System and Wetland Mitigation Plan Planting Plan shall be modified to reflect tree protection of the 30" maple shown near the back of the driveway.

- B. Because of the nature of the site work involved in this project, and the fact that there are no public improvements on Town property, the Commission hereby waives the requirement for a performance bond.

SEDIMENT AND EROSION CONTROLS AND TREE PROTECTION

- C. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the plans in Condition A, above, and any additional measures as may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls (including the tree protection) are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized. **No Zoning Permit for the new house foundation can be issued until all**

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sediment and erosion controls, including, but not limited to the required tree protection, have been installed, and inspected by the Planning and Zoning Department staff.

- D. As recommended by the neighbor's arborist, and as agreed by the applicant's representative, in order to better protect the trees, air spading shall be used around the root systems of trees that border neighbors' properties, rather than a backhoe. The applicant shall contact the Planning and Zoning Department staff to inform them of when that work is to take place.

STORMWATER MANAGMENT

- E. Within the Site Engineering Report dated December 2015 and prepared by the applicant's engineer Doug DiVesta, Appendix A is the Stormwater Management Operation and Maintenance Plan dated 12/16/15 for the on-site stormwater management system. A "Notice of Drainage Maintenance Plan" shall be filed in the Darien Land Records within the next 60 days of this approval and prior to the issuance of a Zoning and Building Permit for the proposed foundation for the new residence.
- F. During the ongoing construction and site work, the applicant shall make all efforts necessary to manage stormwater generated on site and flowing through the site so that it is properly managed and does not negatively impact the neighbors or streets. No supplies or earth material shall be piled or stored in the vicinity of the proposed swales or along property lines in such a way that the material could interfere with the flow of water from other sites into and/or through the subject site.

CONSTRUCTION VEHICLE PARKING

- G. As recommended within Captain Anderson's June 7, 2016 memo, the following shall be implemented:
- 1) During the construction process, all construction vehicles shall park on-site. No construction vehicles shall be parked on the street along this property's frontage.
 - 2) There shall be no construction supplies or Dumpsters on Salisbury Road.
 - 3) If the contractor expects to block a travel lane with either supplies or vehicles for more than a few minutes, he shall make arrangements to hire proper traffic controls as set forth in the Town Ordinance.

The Commission requires, the applicant to provide on-site parking and space for an unloading area for worker and delivery vehicles. On-site parking and unloading areas are not allowed to involve any additional disturbance in regulated areas around wetlands and are not to involve filling of any flood hazard area, even on a temporary basis. All traffic and safety enforcement shall be addressed by the Police Department rather than the Zoning Enforcement Officer.

REQUIRED VERIFICATIONS, PERMITS, AND AS-BUILTS

- H. Accompanying the Zoning and Building Permit applications for the foundation, and prior to commencing construction, a certification shall be submitted from a licensed architect and/or engineer that shall verify that the final design of the foundation of the replacement house complies with the applicable flood damage prevention requirements. This will include specifying the brand and elevations of the flood vents and might also include the need for more flood vents for the main house and the garage. Once the foundation and house are completed, an as-built verification by the design professional is required.

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- I. A detailed regrading design and storm water drainage system design have been incorporated into the plans to avoid potential impacts of runoff on the adjacent properties. Prior to the request for the Certificate of Occupancy for the new residence, the applicant shall submit verification in writing and/or photographs from the professional designer of the drainage system that all aspects of the stormwater management, including the drainage swale, and grading in the yard have been completed in compliance with the approved plans referred to in Condition A, above.
- J. Once the project is complete, and prior to May 10, 2017, the applicant shall submit a final “as built” map and/or other evidence that all work has been properly completed in accordance with the approved plans. This as-built survey shall reflect the location of air conditioning unit(s), generator and above ground propane tanks (if any), all of which shall comply with the required minimum flood elevations as part of this application. It shall also show topography, with spot elevations and one foot elevation contour lines, which must match, or be lower than the approved plan. **Specific spot elevations shall be included near the driveway and septic system to confirm that water will continue to properly flow onto the 19 Salisbury Road property and that the grades have not created a damming effect leading to adverse conditions to the neighboring property.** No additional filling, regrading or raising of the ground level is permitted.
- K. The granting of this Permit does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies. A Demolition Permit from the Building Department will be required. Separate Zoning and Building Permits will be required for this project: one for the new foundation of the proposed residence, and one for the remainder of the proposed residence. .
- L. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke this permit as it deems appropriate.
- M. This permit shall be subject to the provisions of Sections 815 and 829f of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one year of this action (July 26, 2017). This may be extended as per Sections 815 and 829f.

A Special Permit form and Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records within the next sixty days AND prior to the issuance of the Zoning and Building Permit for the foundation permit for the new replacement residence in order to finalize this approval.

Chairman Cameron then read the following agenda item:

Coastal Site Plan Review #311, Flood Damage Prevention Application #356, Dan & Stacie Allen, 77 Five Mile River Road. Proposal to construct additions and alterations to an existing residence; remove the existing pool and construct a new in-ground pool with associated retaining wall; and to perform related site development activities within regulated areas.

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Mr. DiDonna said that he had watched the recording of the public hearing and would vote on the matter.

Commission members reviewed the draft resolution and made several clarifications and corrections. The following motion was made: That the Planning & Zoning Commission adopt the following resolution to approve the project subject to the conditions and stipulations as noted. The motion was made by Mr. Voigt, seconded by Mr. Sini. All voted in favor except Mr. Olvany. The motion passed by a vote of 5-1. The adopted resolution reads as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
July 26, 2016**

Application Number: Coastal Site Plan Review #311
Flood Damage Prevention Application #356

Street Address: 77 Five Mile River Road
Assessor's Map #66 Lot #17

Name and Address of
Property Owner: Dan & Stacie Allen
77 Five Mile River Road
Darien, CT 06820

Name and Address of Applicant &
Applicant's Representative: Paulo Vicente
Vicente Burin Architects
200 Carter Henry Drive
Fairfield, CT 06824

Activity Being Applied For: Proposal to construct additions and alterations to an existing residence; remove the existing pool and construct a new in-ground pool with associated retaining wall; and to perform related site development activities within regulated areas.

Property Location: The subject property is located on the east side of Five Mile River Road, approximately 1,350 feet north of its intersection with Davis Lane.

Zone: R-1/2

Date of Public Hearing: June 28, 2016

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices
Dates: June 17 & 24, 2016

Newspaper: Darien News

Date of Action: July 26, 2016

Action: GRANTED WITH STIPULATIONS

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Scheduled Date of Publication of Action:
August 5, 2016

Newspaper: Darien News

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 400, 850, and 1000 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted plans, and the statements of the applicant's representative whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The proposal is to construct additions and alterations to an existing residence; remove the existing pool and construct a new in-ground pool with associated retaining wall; and to perform related site development activities within regulated areas. The subject property has road frontage along Five Mile River Road, and its eastern boundary is the Five Mile River. It is a 1.16 acre property in the R-1/2 Zone, and is served by public water and sewer.
2. The Darien Environmental Protection Commission (EPC) sent a memo/report dated June 23, 2016 regarding EPC #20-2016. Commission members decided to close the public hearing but to receive the pending report from the EPC. The Environmental Protection Commission (EPC) decided not to hold a public hearing regarding the proposal.
3. The proposed HVAC units are shown on the submitted Zoning Location Survey as being outside of the flood zone, and thus, they do not need to be elevated. All HVAC units shall comply with applicable building setbacks.
4. The tree in the back yard will be trimmed, not cut. It will need to be trimmed to get the new pool and house additions in place.
5. At the public hearing, Commission members discussed the design of the building and noted that it has a very large cupola. They wondered whether it would have any function. The applicant, Mr. Vicente, said that the proposed cupola mimics the cupola on the existing house. He said that the cupola structure will have skylight windows to let light in and will not have a floor on the third floor level. He said that the cupola is much less than 15% of the roof area.

STORMWATER MANAGEMENT

6. According to the engineering report prepared by McChord Engineering, approximately 1,300 square feet of new impervious surface is being created. Stormwater from this new impervious surface will be directed into the drainage system. New Cultec units will be added. The drainage

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system was designed to catch the first inch of rain water and process it for stormwater quality purposes. An associated two-page Drainage Analysis dated May 12, 2106 from McChord Engineering was submitted for the record in this matter.

PROPOSED WORK IN THE FLOOD ZONE

7. The submitted Zoning Location Survey shows the eastern part of the property in flood zone AE 13.0 with a Base Flood Elevation (BFE) of 13 feet above 0.0 North American Vertical Datum 1988 (NAVD 88). The area to the west of that is in Zone X. The proposed work below elevation 13 is the removal of a portion of the existing pool and a new pool to be installed. The easternmost part of the pool is shown as being 31 horizontal feet from Mean High Water (elevation 3.4). The Commission notes that there currently is an in-ground pool in this location. It is specifically noted that the applicant does not show any pool terrace to the north or east of the pool, thereby keeping those areas as pervious.
8. A June 1, 2016 letter was received from Roberge Associates Coastal Engineers (RACE) from Tim DeBartolomeo, PE. This letter certifies that the proposed design will meet or exceed the Flood Damage Prevention regulations. It also notes that the "...mapped BFE of El. +13' is overly conservative...and does "not accurately represent the sheltered nature of the site." RACE computed a site specific BFE of El. +11' in the vicinity of the proposed work.
9. The pool is located between the house and the Five Mile River. The proposed addition is to the south side and rear of the house. This will require the removal of the existing swimming pool. A new swimming pool is proposed closer to the River. Paulo Vicente, Project Architect said that approximately 14 square feet of the existing pool is in the Flood Zone. Approximately 690 square feet of the 800 square foot new swimming pool is in the Flood Hazard Zone. Both the existing and proposed pools are within the 100 foot critical area adjacent to the Five Mile River. Almost the entire proposed pool is located within the Flood Zone.
10. A Coastal Area Management Report has been submitted. It notes that the pool is within the flood hazard area and within the 100 foot critical area adjacent to the Five Mile River. The pool coping will be at elevation 11.4 and will therefore need to have special hydrostatic vents included in accordance with the Roberge Engineering report dated 6-1-2016.
11. The Commission discussed the fact that swimming pools are sometimes proposed in or near the Flood Zone and/or within the 100 foot critical area adjacent to the rivers and mean high water. Where possible, the Commission tries to keep the structures out of both the flood zone and critical 100 foot Coastal Area Management area.
12. This application was referred to the State of Connecticut DEEP. They responded in an e-mail dated June 20, 2016 that they have reviewed the proposal, and find no inconsistencies relative to the Connecticut Coastal Management Act.

REQUIRED COASTAL SITE PLAN AND FLOOD DAMAGE FINDINGS

13. The proposed activities, to be implemented with the conditions listed below, will have no adverse impact on flooding, and therefore, this proposal is consistent with the need to minimize flood damage. In accordance with the submitted engineering information, the proposed activity will have no adverse impacts on flooding on adjacent properties.

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14. The Commission finds that the proposed development, if properly implemented and protected, is not contrary to the goals, objectives and policies of the Coastal Area Management Program.
15. The proposed activity is consistent with the goals and policies in Section 22a-92 of the Connecticut General Statutes.
16. The potential adverse impacts of the proposed activity on coastal resources are acceptable.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #311 and Flood Damage Prevention Application #356 are hereby granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Filling and regrading work shall be in accordance with the plan submitted to and reviewed by the Commission entitled:
 - Zoning Location Survey 77 Five Mile River Road prepared for Dan Allen Stacie Allen, by William W. Seymour & Associates, last revised May 23, 2016.
 - Site Development Plan prepared for Dan and Stacy Allen by McChord Engineering Associates, Inc., dated May 12, 2016, Drawing No. SE-1.
 - Additions and Alterations to: The Allen Residence 77 Five Mile River Road, by Vicente Burin Architects, LLC, last revised 5-25-2016, Sheets A-200, A-201, A-202, and A-300.
- B. The submitted plans show no proposed pool terrace to the north or east of the pool. In addition, the proposed pool terrace is limited to extend to be no less than 15 feet from the south property line. Rather, those areas will be lawn or planted areas. That limited proposed pool terrace area around the pool is a critical part of this approval. The plans also show no new pool fence to be installed, as all fencing in their existing locations will be used. Any change to increase the amount of pool terrace, or to install pool fencing below elevation 13.0 will require an amendment of this approval.
- C. The Commission finds that the proposed cupola is functional, not used for human occupancy, and is much less than 15% of the roof. The Commission finds that the height of the proposed cupola is only to the height necessary to accomplish the purpose it is intended to serve.
- D. Because of the nature of the site work involved in this project, the Commission hereby waives the requirement for a performance bond.
- E. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the "Site Development Plan" in Condition A, above, and any additional measures as may be necessary due to site conditions. These include, but are not limited to the tree protection, silt fence backed with staked haybales as shown on the Site Development Plan. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.

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- F. A Stormwater Facilities Maintenance Plan for the proposed yard drain and underground detention chambers (the Cultec units behind the residence) was prepared by the applicant's engineer and submitted for the record in this matter. The maintenance plan requires the property owner and all subsequent property owners of 77 Five Mile River Road to maintain the drainage facilities pursuant to the maintenance plan.
- G. A related "Notice of Drainage Maintenance Plan" shall be filed in the Darien Land Records within 60 days of this approval and prior to any on-site filling or regrading work requested herein and prior to the issuance of a Zoning and Building Permit for the pool.
- H. A detailed regrading design and storm water drainage system design have been incorporated into the plans to avoid potential impacts of runoff on the adjacent properties. It is critical that throughout the redevelopment of the site, even before the final drainage system is installed, the applicant must properly manage storm water runoff to avoid negative impacts to the neighbors and/or the street.
- I. During the construction process, several as-built surveys will be needed to verify that the house addition, the pool and the generator each comply with the setback and other requirements. Prior to the request for the Certificate of Zoning Compliance for the house addition or the pool, the applicant shall submit verification in writing and/or photographs from the professional designer of the drainage system that all aspects of the stormwater management and grading in the yard have been completed in compliance with the approved plan referred to in Condition A, above.
- J. The granting of this Permit does not relieve the applicant of responsibility for complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies. A Demolition Permit may be required. Separate Zoning and Building Permits will be needed for the house additions and alterations, and the proposed in-ground pool. An Electrical Permit will be needed for the proposed generator.
- K. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke this permit as it deems appropriate.
- L. This permit shall be subject to the provisions of Sections 858 and 1009 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one year of this action (July 26, 2017). This may be extended as per Sections 858 and 1009.

All provisions and details of the plan shall be binding conditions of this action and such approval shall become final upon compliance with these conditions and the signing of the final documents by the Chairman. A Special Permit form and Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records within the next sixty days AND prior to the start of the proposed work in order to finalize this approval.

Chairman Cameron then read the following agenda item:

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Land Filling & Regrading Application #383, Nicholas & Autumn Robert, 7 Whaling Road.

Proposal to construct a new swimming pool with associated retaining wall, stone patio, and underground storage (at garage level), and perform related site development activities.

Commission members reviewed the draft resolution and made several modifications and clarifications. The following motion was made: That the Planning & Zoning Commission adopt the following resolution to approve the project subject to the conditions and stipulations as noted. The motion was made by Mr. Sini, seconded by Mr. Olvany and unanimously approved. The adopted resolution reads as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
July 26, 2016**

Application Number: Land Filling & Regrading Application #383

Street Address: 7 Whaling Road
Assessor's Map #62 Lot #54

Name and Address of
Property Owner: Nicholas & Autumn Robert
7 Whaling Road
Darien, CT 06820

Name and Address of Applicant &
Applicant's Representative: Jacek Bigosinski
PB Architects
110 Boston Post Road
Darien, CT 06820

Activity Being Applied For: Proposal to construct a new swimming pool with associated retaining wall, stone patio, and underground storage (at garage level), and perform related site development activities.

Property Location: The subject property is located on the east side of Whaling Road, approximately 400 feet north of its intersection with Salem Straits.

Zone: R-1

Date of Public Hearing: June 28, 2016

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices
Dates: June 17 & 24, 2016

Newspaper: Darien News

Date of Action: July 26, 2016

Action: APPROVED WITH CONDITIONS

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Scheduled Date of Publication of Action:
August 5, 2016

Newspaper: Darien News

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 400, 850, and 1000 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted plans, and the statements of the applicant's representative whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The proposal is to construct a new swimming pool with associated retaining wall, stone patio, and underground storage (at garage level), and perform related site development activities. Other work to the residence is also proposed, but that work does not require a filling and regrading application—only the pool, wall and patio requires a Special Permit.
2. The agent of the Darien Environmental Protection Commission (EPC) #17-2016 approved this project in a letter dated May 18, 2016. That approval is hereby incorporated by reference.
3. The applicant has proposed two Cultec units to address stormwater management. These are shown on the submitted Drainage Plan.
4. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
5. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.

NOW THEREFORE BE IT RESOLVED that Land Filling & Regrading Application #383 is hereby approved subject to the foregoing and following stipulations, modifications and understandings:

- A. Filling and regrading work shall be in accordance with the plan submitted to and reviewed by the Commission entitled:
 - Topographic Survey of a portion of #7 Whaling Road prepared for Nicholas Robert Autumn Lee Weber Robert, by William W. Seymour & Associates, dated March 8, 2016 and last revised May 18, 2016.
 - Drainage Plan, Nicholas & Autumn Lee Weber Robert, by Fairfield County Engineering, LLC, dated 5-13-16, last revised 5/23/16, Sheet 1 of 2.

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- Detail Sheet, Nicholas & Autumn Lee Weber Robert, by Fairfield County Engineering, LLC, dated 5-13-16, Sheet 2 of 2.
- B. Because of the nature of the site work involved in this project, the Commission hereby waives the requirement for a performance bond.
- C. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the “Drainage Plan” and “Detail Sheet” in Condition A, above, and any additional measures as may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- D. A Drainage Maintenance Plan for the proposed Cultec units shall be prepared by the applicant’s engineer and submitted to the Planning and Zoning Office for review and action by the Director of Public Works and the Planning and Zoning Director. After approval by the two Directors, it shall be filed in the Darien Land Records or with the Planning and Zoning Commission file on this matter. The maintenance plan shall require the property owner and all subsequent property owners of 7 Whaling Road to maintain the drainage facilities pursuant to the maintenance plan.
- E. A related “Notice of Drainage Maintenance Plan” shall be filed in the Darien Land Records within the next 60 days of this approval and prior to any on-site filling or regrading work requested herein and prior to the issuance of a Zoning and Building Permit for the pool.
- F. A detailed regrading design and storm water drainage system design have been incorporated into the plans to avoid potential impacts of runoff on the adjacent properties. It is critical that throughout the redevelopment of the site, even before the final drainage system is installed, the applicant must properly manage storm water runoff to avoid negative impacts to the neighbors and/or the street.
- G. Prior to the request for the Certificate of Zoning Compliance for the pool, the applicant shall submit verification in writing and/or photographs from the professional designer of the drainage system that all aspects of the stormwater management and grading in the yard have been completed in compliance with the approved plan referred to in Condition A, above.
- H. The granting of this Permit does not relieve the applicant of responsibility for complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies. Any required blasting will require a Blasting Permit from the Fire Marshal.
- I. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke this permit as it deems appropriate.

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- J. This permit shall be subject to the provisions of Sections 858 and 1009 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one year of this action (July 26, 2017). This may be extended as per Sections 858 and 1009.

All provisions and details of the plan shall be binding conditions of this action and such approval shall become final upon compliance with these conditions and the signing of the final documents by the Chairman. A Special Permit form and Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records within the next sixty days AND prior to the start of the proposed work in order to finalize this approval.

Chairman Cameron then read the following agenda item:

Flood Damage Prevention Application #351, Land Filling & Regrading Application #374, Hernandez, 15 Waverly Road.

Request for extension of time for an additional year to start work on the project.

A one year extension of time has been requested to implement the project that has been approved by the Commission. Commission members felt this would be acceptable. The following motion was made: That the Planning & Zoning Commission grant the one year extension of the time period to start and complete the project. The motion was made by Mr. Cunningham, second by Mr. Voigt and unanimously approved.

Chairman Cameron then read the following agenda item:

Subdivision Application #615, Michael Nikolas, 2 Silver Lakes Drive.

Request for extension of time to obtain Demolition Permit, demolish house, and file a mylar in the land records to implement the approved subdivision.

Commission members noted that a public hearing regarding the proposed development of the lots is scheduled for August 9, 2016. The following motion was made: That the Planning & Zoning Commission approve a 180 day extension of the time period to file the subdivision map in the Land Records and therefore finalize the subdivision approval process. The motion was made by Mr. Voigt, seconded by Mr. DiDonna and unanimously approved.

Chairman Cameron then read the following agenda item:

Approval of Minutes

June 7, 2016 Public Hearing/General Meeting

Commission members discussed and made several clarifications of the minutes. The following motion was made: That the Planning & Zoning Commission adopt the corrected minutes. The motion was made by Mr. Sini, seconded by Mr. Olvany. Voting in favor were Mr. Voigt, Ms. Cameron, Mr. DiDonna and Mr. Sini. Mr. Cunningham and Mr. Olvany abstained.

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June 21, 2016 Public Hearing/General Meeting

Several clarifications were made to the draft minutes. The following motion was made: That the Planning & Zoning Commission adopt the corrected minutes. The motion was made by Mr. Sini and seconded by Mr. Olvany. All voted in favor except Ms. Cameron, who abstained.

June 28, 2016 Public Hearing/General Meeting

Action on these minutes was postponed.

July 19, 2016 Public Hearing (no quorum)

Minor clarifications were discussed and agreed upon. The following motion was made: That the Planning & Zoning Commission adopt the corrected minutes. The motion was made by Ms. Cameron, seconded by Mr. Olvany and unanimously approved.

Mr. Ginsberg said that the Commission will have a Special Meeting on August 2, 2016 at 7 P.M. to discuss pending litigation and then there will be the General Meeting/Public Hearing commencing at approximately 8 P.M.

There being no further business, the following motion was made: That the Commission adjourn the meeting. The motion was made by Mr. Voigt, seconded by Mr. DiDonna and unanimously approved. The meeting was adjourned at 10:30 P.M.

Respectfully submitted,

David J. Keating
Assistant Planning & Zoning Director